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Training and technical assistance

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Note by the Secretariat

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I. Introduction

1. Pursuant to a decision taken at the twentieth session of the United Nations Commission on International Trade Law (UNCITRAL),[1] held in 1987, training and assistance activities count among the high priorities of UNCITRAL. The training and technical assistance programme carried out by the Secretariat under the mandate given by the Commission, in particular in developing countries and in countries with economies in transition, encompasses two main lines of activity: (a) information activities aimed at promoting understanding of international commercial law conventions, model laws and other legal texts; and (b) assistance to Member States with commercial law reform and adoption of UNCITRAL texts.

2. The present note lists the activities of the Secretariat subsequent to the issuance of the previous note submitted to the Commission at its thirty-third session, in 2000 (A/CN.9/473), and indicates possible future training and technical assistance activities in the light of the requests for such services from the Secretariat.

II. Importance of texts of the United Nations Commission on International Trade Law

3. Increasing importance is being attributed by Governments, domestic and international business communities and multilateral and bilateral aid agencies to the improvement of the legal framework for international trade and investment. UNCITRAL has an important function to play in that process because it has produced and promotes the use of legal instruments in a number of key areas of commercial law that represent internationally agreed standards and solutions acceptable to different legal systems. Those instruments include:

(a) In the area of sales, the United Nations Convention on Contracts for the International Sale of Goods[2] and the United Nations Convention on the Limitation Period in the International Sale of Goods;[3]

(b) In the area of dispute resolution, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards[4] (a United Nations convention adopted prior to the establishment of the Commission, but actively promoted by it), the UNCITRAL Arbitration Rules,[5] the UNCITRAL Conciliation Rules,[6] the UNCITRAL Model Law on International Commercial Arbitration[7] and the UNCITRAL Notes on Organizing Arbitral Proceedings;[8]

(c) In the area of government contracting, the UNCITRAL Model Law on Procurement of Goods, Construction and Services[9] and the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects;[10]

(d) In the area of banking, payments and insolvency, the United Nations Convention on Independent Guarantees and Standby Letters of Credit (General Assembly resolution 50/48, annex), the UNCITRAL Model Law on International Credit Transfers,[11] the United Nations Convention on International Bills of Exchange and International Promissory Notes (resolution 43/165, annex) and the UNCITRAL Model Law on Cross-Border Insolvency;[12]

(e) In the area of transport, the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules),[13] and the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade;[14]

(f) In the area of electronic commerce and data interchange, the UNCITRAL Model Law on Electronic Commerce.[15]

III. Technical assistance in the preparation and implementation of legislation

4. Technical assistance is provided to States preparing legislation based on UNCITRAL texts. Such assistance is provided in various forms, including review of preparatory drafts of legislation from the viewpoint of UNCITRAL texts, technical consultancy services and assistance in the preparation of legislation based on UNCITRAL texts, preparation of regulations implementing such legislation and comments on reports of law reform commissions, as well as briefings for legislators, judges, arbitrators, procurement officials and other users of UNCITRAL texts embodied in national legislation. Another form of technical assistance provided by the Secretariat consists of

advising on the establishment of institutional arrangements for international commercial arbitration, including training seminars for arbitrators, judges and practitioners in the area. Training and technical assistance promote awareness and wider adoption of the legal texts produced by the Commission and are particularly useful for developing countries lacking expertise in the areas of trade and commercial law covered by the work of UNCITRAL. The training and technical assistance activities of the Secretariat could thus play an important role in the economic integration efforts being undertaken by many countries.

5. In its resolution 55/151 of 12 December 2000, the General Assembly reaffirmed the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law, such as assistance in the preparation of national legislation based on legal texts of the Commission; expressed the desirability for increased efforts by the Commission, in sponsoring seminars and symposia, to provide such training and technical assistance; and appealed to the United Nations Development Programme and other bodies responsible for development assistance, such as the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development, as well as to Governments in their bilateral aid programmes, to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission.

6. The secretariat of the Commission has taken steps to increase cooperation and coordination with development assistance agencies, with a view to ensuring that the legal texts prepared by the Commission and recommended by the General Assembly for consideration are in fact so considered and used. From the standpoint of recipient States, UNCITRAL technical assistance is beneficial because of the Secretariat's accumulated experience in the preparation of UNCITRAL texts.

7. States that are in the process of revising their trade legislation may wish to request the UNCITRAL secretariat to provide technical assistance and advice.

IV. Seminars and briefing missions

8. The information activities of UNCITRAL are typically carried out through seminars and briefing missions for government officials from interested ministries (such as trade, foreign affairs, justice and transport), judges, arbitrators, practising lawyers, the commercial and trading community, scholars and other interested individuals. Seminars and briefing missions are designed to explain the salient features and utility of international trade law instruments of UNCITRAL. Information is also provided on certain important legal texts of other organizations, for example, Uniform Customs and Practice for Documentary Credits and Incoterms of the International Chamber of Commerce and the Convention on International Factoring of the International Institute for the Unification of Private Law (Unidroit).

9. In its resolution 55/151, the General Assembly expressed the desirability for increased efforts by the Commission, in sponsoring seminars and symposia, to provide training and technical assistance.

10. Lectures at UNCITRAL seminars are generally conducted by one or two members of the UNCITRAL secretariat, experts from the host countries and, occasionally, external consultants. After the seminars, the secretariat maintains contact with seminar participants in order to provide the host countries with the maximum possible support during the process leading up to the adoption and use of UNCITRAL texts.

11. Since the previous session, the secretariat of the Commission has organized seminars in a number of States, which have typically included briefing missions. The following seminars were financed with resources from the UNCITRAL trust fund for symposia:

(a) Havana (22-26 May 2000), seminar held in cooperation with the Government of Cuba (approx. 30 participants);

(b) Tashkent (16-19 October 2000), seminar held in cooperation with the Ministry of Foreign Economic Relations (approx. 60 participants);

(c) Seoul (6-9 November 2000), seminar held in cooperation with the Ministry of Foreign Affairs (approx. 40 participants);

(d) Beijing (13-16 November 2000), seminar held in cooperation with the Ministry of Foreign Trade and Economic Relations (approx. 70 participants);

(e) Cairo (20-23 November 2000), seminar held in cooperation with the League of Arab States and the Cairo Regional Centre for International Commercial Arbitration (approx. 100 participants);

(f) Bologna, Italy (2 and 3 April 2001), symposium held in cooperation with the Organization for the Unification of Business Law in Africa (OHADA) (approx. 180 participants).

V. Participation in other activities

12. Members of the UNCITRAL secretariat have participated as speakers in various seminars, conferences and courses where UNCITRAL texts were presented for examination and possible adoption or use. The participation of members of the secretariat in the seminars, conferences and courses listed below was financed by the institution organizing the events or by another organization:

(a) Inter-Pacific Bar Association Cyber Arbitration Working Group, International Trade Committee and Insolvency Committee (Vancouver, Canada, 28 April-2 May 2000);

(b) Regional Meeting on Electronic Commerce and Intellectual Property for Development for Caribbean Countries, sponsored by the World Intellectual Property Organization (WIPO) (Kingston, 15-17 May 2000);

(c) Conference on Public and Private Law, sponsored by the Canadian Bar Association (Ottawa, 16-21 May 2000);

(d) Middle East IT For Energy Forum, sponsored by the Middle East Global Advisors (Manama, 27-29 May 2000);

(e) Expert Group Meeting on Concession Agreements, sponsored by the Centre for Private Sector Development of the Organisation for Economic Cooperation and Development (OECD) (Istanbul, Turkey, 30 May-1 June 2000);

(f) Schmithoff Symposium 2000, sponsored by the Centre for Commercial Law Studies of the University of London (London, 1-3 June 2000);

(g) Baltic Region Spring Meeting, sponsored by the Chartered Institute of Arbitrators (Vilnius, 2-4 June 2000);

(h) IBC Global Conferences Ltd. Electronic Cross-Border Trade Finance Conference (London, 15 and 16 June 2000);

(i) Forum on Legal Aspects of Electronic Commerce, sponsored by the Ministry of Cabinet Affairs and Information of Bahrain (Manama, 20 and 21 June 2000);

(j) Electronic Commerce Seminar, sponsored by the Jamaican Institute of Bankers (Kingston, 23 June 2000);

(k) IBC Global Conferences Ltd. Electronic Cross-Border Trade Finance Conference (New York, 10 July 2000);

(l) Global Jurisdictional Issues Created by the Internet Event, sponsored by the American Bar Association (London, 17 July 2000);

(m) Meeting on International Secured Transactions, sponsored by the American Law Institute (London, 18 July 2000);

(n) Seminar on Electronic Commerce, sponsored by the Mexican Chapter of the International Chamber of Commerce (Mexico City, 3 and 4 August 2000);

(o) London Court of International Arbitration Symposium (Scheveningen, The Netherlands, 15-17 September 2000);

(p) International Bar Association Biennial Conference (Amsterdam, The Netherlands, 18-23 September 2000);

(q) Regional Seminar on Electronic Commerce and Intellectual Property, sponsored by WIPO (Amman, 18-20 September 2000);

(r) Lectures on the unification of international law and the sale of goods at the Ferienakademie der Studienstiftung (Île de Ré, France, 18-29 September 2000);

(s) Development Lawyers Course on Legal and Regulatory Aspects of E-Commerce, sponsored by the International Development Law Institute (Rome, 27 September 2000);

(t) Lecture on removing legal obstacles to e-commerce at the Stetson University College of Law (Tampa, Florida, United States of America, 13 October 2000);

(u) World E-Commerce Forum (London, 17-20 October 2000);

(v) Conference on Globalization and the Evolution of Legal Systems, sponsored by the University of Ottawa, the Canadian Department of Justice and Heritage Canada (Ottawa, 20 and 21 October 2000);

(w) Electronic Commerce Colloquium, sponsored by the École des hautes études commerciales (Nice, France, 23-25 October 2000);

(x) Regional Seminar on Electronic Commerce and Intellectual Property, sponsored by WIPO (Krakow, Poland, 25 and 26 October 2000);

(y) Regional Conference on Private Investment in Infrastructure, sponsored by the Cairo Regional Centre for Commercial Arbitration (Cairo, 28 and 29 October 2000);

(z) Conference on Internet and Electronic Commerce, sponsored by the Government of Tunisia and the Tunisian Internet Agency (Tunis, 9 and 10 November 2000);

(aa) Seminar on International Contracts and Arbitration, sponsored by the University of Bologna (Buenos Aires, 27 November-1 December 2000);

(bb) Seminar on Legal Aspects of International E-Commerce, sponsored by Hawksmere (Paris, 11 and 12 December 2000);

(cc) IBC Global Conferences Ltd. Structured Commodity and Trade Finance Conference (Geneva, 25 and 26 January 2001);

(dd) Meeting of the International Committee of the Chartered Institute of Arbitrators (London, 26 January 2001);

(ee) University of Georgia Course on the United Nations Sales Convention (Atlanta, Georgia, United States, 12-17 March 2001);

(ff) University of Padua Seminar on International Commercial Law (Padua, Italy, 30 and 31 March 2001);

(gg) Lecture on electronic commerce at the University of Verona (Verona, Italy, 2-4 April 2001);

(hh) International Trade Law Postgraduate Course, sponsored by the International Training Centre of the International Labour Organization (ILO) and the University Institute of European Studies (Turin, Italy, 18 April 2001).

13. The participation of members of the Secretariat in the seminars, conferences and courses listed below was financed, partially or totally, with resources from the United Nations regular travel budget:

(a) The Economic Commission for Europe (ECE) Forum on Electronic Commerce for Transition Economies in the Digital Age (Geneva, 19 and 20 June 2000);

(b) American Bar Association Annual Meeting (New York, 10 and 11 July 2000);

(c) Tenth Meeting of the International Academy of Commercial and Consumer Law (Carlisle, Pennsylvania, United States, 9-13 August 2000);

(d) 2000 Conference of the Chartered Institute of Arbitrators (Dublin, 28-30 September 2000);

(e) ECE Bureau of the WP.5's Advisory Group on Commercial Arbitration (Geneva, 5 and 6 October 2000);

(f) Balkan Legal Forum 2000, sponsored by the International Bar Association (Sofia, 9 and 10 November 2000);

(g) Association of South East Asian Nations Government Legal Officers Seminar (Singapore, 17 November 2000);

(h) Secure Electronic Commerce Partnership Conference, sponsored by the International Telecommunication Union and Keywise (Geneva, 27-29 November 2000);

(i) Global Finance Conference, sponsored by the Factors and Discounters Association and the Commercial Finance Association (Dublin, 5-7 December 2000);

(j) Eighth International Zagreb Arbitration Conference, sponsored by the Permanent Arbitration Court, Croatian Chamber of Commerce (Zagreb, 7 and 8 December 2000);

(k) Building Trust in the Online Environment: Business-to-Consumer Dispute Resolution Conference, sponsored by OECD, The Hague Conference on Private International Law and the International Chamber of Commerce (The Hague, 11 and 12 December 2000);

(l) Conference on OHADA Uniform Commercial Laws, sponsored by the Italian Institute of Foreign Trade, The African Development Bank and Baker & McKenzie (Milan, Italy, 14 December 2000);

(m) Meeting of the Advisory Group on the World Bank Project on Strengthening National Insolvency Regimes (London, 15 and 16 January 2001);

(n) E-Business and Development Conference, sponsored by the Information and Decision Support Centre of the Egyptian Cabinet (Cairo, 13-15 February 2001);

(o) E-Commerce and the Law Conference, sponsored by the Abu Dhabi Chamber of Commerce and Industry (Abu Dhabi, 20 and 21 February 2001).

VI. Internship programme

14. The internship programme is designed to give young lawyers the opportunity to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. During the past year, the Secretariat has hosted 11 interns from Australia, Austria, Brazil, Germany, Italy, Malaysia and Spain. Interns are assigned tasks such as basic or advanced research, collection and systematization of information and materials or assistance in preparing background papers. The experience of UNCITRAL with the internship programme has been positive. As no funds are available to the Secretariat to assist interns to cover their travel or other expenses, interns are often sponsored by an organization, university or government agency or they meet their expenses from their own means. In that connection, the Commission may wish to invite Member States, universities and other organizations, in addition to those which already do so, to consider sponsoring the participation of young lawyers in the United Nations internship programme with UNCITRAL.

15. The Secretariat also occasionally accommodates requests by scholars and legal practitioners who wish to conduct research in the Branch and in the UNCITRAL law library for a limited period of time.

VII. Future activities

16. For the remainder of 2001, seminars and legal assistance briefing missions are being planned in Africa, Asia, countries with economies in transition in eastern Europe and Latin America. Since the cost of training and technical assistance activities is not covered by the regular budget, the ability of the Secretariat to implement those plans is contingent upon the receipt of sufficient funds in the form of contributions to the UNCITRAL trust fund for symposia.

17. As it has done in recent years, the Secretariat has agreed to co-sponsor the next three-month international trade law postgraduate course to be organized by the University Institute of European Studies and the International Training Centre of ILO in Turin. Typically, approximately half the participants are from Italy, with many of the remainder coming from developing countries. The contribution from the UNCITRAL secretariat to the next course will focus on issues of harmonization of laws on international trade law from the perspective of UNCITRAL, including past and current work.

18. Also, as it has done for the past seven years, the Secretariat co-sponsored the eighth Willem C. Vis International Commercial Arbitration Moot in Vienna from 6 to 12 April 2001. The Moot is principally organized by the Institute of International Commercial Law at Pace University School of Law. With its broad international participation, involving teams from 31 countries in 2001, it is seen as an excellent way to disseminate information about uniform law texts and teaching international trade law.

VIII. Financial resources

19. The Secretariat continues its efforts to devise a more extensive training and technical assistance programme to meet the considerably greater demand from States for training and assistance, in keeping with the call of the Commission at its twentieth session for

an increased emphasis both on training and assistance and on the promotion of the legal texts prepared by the Commission. However, as no funds for UNCITRAL seminars are provided for in the regular budget, expenses for UNCITRAL training and technical assistance activities (except for those which are supported by funding agencies such as the World Bank) have to be met from voluntary contributions to the UNCITRAL trust fund for symposia.

20. Given the importance of extrabudgetary funding for the implementation of the training and technical assistance component of the UNCITRAL work programme, the Commission may again wish to appeal to all States, international organizations and other interested entities to consider making contributions to the UNCITRAL trust fund for symposia, in particular in the form of multi-year contributions, so as to facilitate planning and to enable the Secretariat to meet the increasing demands from developing countries and States with economies in transition for training and assistance. Information on how to make contributions may be obtained from the Secretariat.

21. In the period under review, contributions were received from Canada, Finland, France, Mexico and Switzerland. The Commission may wish to express its appreciation to those States and organizations which have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars.

22. In that connection, the Commission may wish to recall that, in accordance with General Assembly resolution 48/32 of 9 December 1993, the Secretary-General was requested to establish a trust fund to grant travel assistance to developing countries that are members of UNCITRAL. The trust fund so established is open to voluntary financial contributions from States, intergovernmental organizations, regional economic integration organizations, national institutions and non-governmental organizations, as well as to natural and juridical persons.

23. At its thirty-first session, the Commission noted with appreciation that the General Assembly, in its resolution 52/157 of 15 December 1997, had appealed to Governments, the relevant United Nations organs, organizations, institutions and individuals, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to make voluntary contributions to the trust fund for granting travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General.

24. Since the establishment of the trust fund, contributions have been received from Austria, Cambodia, Cyprus, Kenya and Singapore.

25. It is recalled that in its resolution 51/161 of 16 December 1996, the General Assembly decided to include the trust funds for symposia and travel assistance in the list of funds and programmes that are dealt with at the United Nations Pledging Conference for Development Activities.

Notes

[1] *Official Records of the General Assembly, Forty-second Session, Supplement No. 17* (A/42/17), para. 335.

[2] *Official Records of the United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March-11 April 1980* (United Nations publication, Sales No. E.82.V.5), part I.

[3] *Official Records of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods, New York, 20 May-14 June 1974* (United Nations publication, Sales No. E.74.V.8), part I.

[4] United Nations, *Treaty Series*, vol. 330, No. 4739.

[5] *Official Records of the General Assembly, Thirty-first Session, Supplement No. 17* (A/31/17), para. 57.

[6] Ibid., *Thirty-fifth Session, Supplement No. 17* (A/35/17), para. 106.

[7] Ibid., *Fortieth Session, Supplement No. 17* (A/40/17), annex I.

[8] Ibid., *Fifty-first Session, Supplement No. 17* (A/51/17), chap. II.

[9] Ibid., *Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

[10] United Nations publication, Sales No. E.01.V.4.

[11] *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 17* (A/47/17), annex I.

[12] Ibid., *Fifty-second Session, Supplement No. 17* (A/52/17), annex I.

[13] *Official Records of the United Nations Conference on the Carriage of Goods by Sea, Hamburg, 6-31 March 1978* (United Nations publication, Sales No. E.80.VIII.1), document A/CONF.89/13, annex I.

[14] A/CONF.152/13, annex.

[15] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 17* (A/51/17), annex I.